

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

RECEIVED

MAR - 1 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Revision of Part 22 and Part 90 of the)
Commission's Rules to Facilitate Future)
Development of Paging Systems)

WT Docket No. 96-18

Implementation of Section 309(j) of the)
Communications Act--Competitive Bidding)

PP Docket No. 93-253

To: The Commission

FILE COPY ORIGINAL

COMMENTS OF AMERICAN PAGING, INC.

American Paging, Inc. ("API"), by its attorneys, comments in response to the Commission's Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding with respect to the Commission's interim licensing proposals (NPRM, Paras. 139-149).

API provides one-way wireless communications messaging services through 38 sales and service operating centers in 14 states and the District of Columbia, with operations concentrated in Florida and in the Mid-Atlantic and Midwest regions. The company serves more than 785,000 customers through 1,018 transmitters covering service areas with a total population of approximately 75 million.

We support adoption of the Commission's interim licensing procedures for nationwide licensees and of revisions to the Commission's interim proposals to give paging providers needed flexibility to continue to make facilities changes to non-nationwide networks during the pendency of these proceedings. Specifically,

- The Commission's proposal for continued expansion of nationwide 929 MHz networks by licensees who have qualified for "earned" exclusivity is clearly in the public interest and should be adopted;
- Additions to and modifications of existing 929 and 931 MHz paging networks which do not expand the established composite interference contours of these networks should be permitted;
- We also support licensing on a secondary basis of 929 and 931 MHz facilities in circumstances where new or modified facilities would establish new or expanded composite (20/50) interference contours; and
- We strongly support termination of the proposed freeze on CCP and PCP licensing on UHF, VHF and shared 929 MHz frequencies.

DISCUSSION

1. We support continued expansion of 929 and 931 MHz networks by licensees who have obtained nationwide exclusivity.

We agree with the Commission that no other applicant should also be able to apply for channels licensed to CCP and PCP licensees who have obtained nationwide exclusivity. The public interest in new and expanded paging service offerings is clearly served by permitting nationwide licensees to develop their networks on these channels.

2. Incumbent licensees should be permitted to add sites to existing 929 and 931 MHz systems or modify existing sites if those additions or modifications do not expand existing interference contours.

We strongly support the adoption of interim licensing proposals to permit additions or fill-ins within existing interference contours reflected in § 22.537(f), Table E-2 and § 90.495-(b)(2) of the Commission's rules. The effect of the apparent reference in footnote 271 of the NPRM is to cause the redefinition

of the relevant interference contours so that many fill-ins or additions which would have been permissible under current rules are either precluded or otherwise highly problematic. The public is the loser if this redefinition is adopted because additions and modifications to increase capacity and quality of service in areas where licensees have reasonable and legitimate expectations to make facilities upgrades will likely be postponed pending the outcome of these proceedings and the completion of related auctions. This result is disruptive to sound network planning practices and continuity of service improvements to the public, unfairly undercuts reliance of responsible network operators on established Commission regulatory policies in their business planning and hampers implementation of even modest interim improvements in established networks benefitting potentially millions of paging subscribers. The public interest would clearly be served if interim additions or modifications within the limits of existing interference contours are permitted.

3. Secondary licensing of 929 and 931 MHz facilities which expand the interference contours of existing networks should be permitted.

We support the Commission's secondary licensing proposal (NPRM, Para. 143) as an interim procedure to be able to meet special customer needs where the uncertainties and financial risks inherent in such secondary status are supportable. We emphasize that these secondary licensing procedures should be adopted as a complement to the separate filing opportunities described above, i.e. where licensees are making additions or modifications within

the existing interference contours, not as a substitute for them.

4. The proposed freeze on interim CCP and PCP licensing on UHF, VHF and shared 929 MHz should not be adopted.

We support the numerous small paging systems operators on UHF, VHF and shared 929 MHz spectrum who oppose the adoption of the interim freeze proposals affecting this spectrum. The Commission has clear statutory responsibilities to make sure that the special needs of these small business entities are given great weight in these proceedings and that the foreseeable adverse consequences of the proposed interim freeze upon this group are avoided.

CONCLUSION

We respectfully request that the Commission adopt interim licensing procedures, as proposed here, as a reasonable way of balancing the public benefits which this dynamic industry is continuing to deliver to tens of millions of customers while it awaits its transition to market area licensing on 929 and 931 MHz spectrum.

Respectfully submitted,

AMERICAN PAGING, INC.

By /s/ George Y. Wheeler
George Y. Wheeler

Koteen & Naftalin
1150 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 467-5700

Its Attorneys

March 1, 1996